

Andrew Schwartz (State Bar No. 100210)
 Frank Sommers (State Bar No. 109012)
 SOMMERS & SCHWARTZ LLP
 550 California Street
 The Sacramento Tower, Suite 700
 San Francisco, CA 94104
 Telephone: (415) 955-0925
 Facsimile: (415) 955-0927

Karen Carrera (State Bar No. 165675)
 Maura Prendiville (State Bar No. 257514)
 LEGAL AID OF MARIN
 30 N. San Pedro Road, Suite 220
 San Rafael, CA 94903
 Telephone: (415) 492-0230
 Facsimile: (415) 492-0947

Attorneys for Plaintiffs Jacquelyn Hall, Esther Williams,
 Rachael Brown, Nicanora Contreras, and Ariana Martinez

**IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA**

JACQUELYN HALL, ESTHER WILLIAMS,
 RACHAEL BROWN, NICANORA
 CONTRERAS, and ARIANA MARTINEZ,
 for themselves and all others similarly situated,

Plaintiffs,

vs.

HOUSING AUTHORITY OF THE COUNTY
 OF MARIN, and DOES 1 through 100,
 INCLUSIVE,

Defendants.

Case No.:

CLASS ACTION COMPLAINT FOR
 PERMANENT INJUNCTION,
 DECLARATORY JUDGMENT AND
 RESTITUTION FOR VIOLATION OF 42
 U.S.C. § 1983 AND THE UNITED STATES
 HOUSING ACT, AND FOR UNLAWFUL,
 FRAUDULENT AND UNFAIR BUSINESS
 PRACTICES UNDER CALIFORNIA B&P
 CODE § 17200 *ET. SEQ.*

**CLASS ACTION COMPLAINT
 DEMAND FOR JURY TRIAL**

Plaintiffs Jacquelyn Hall, Esther Williams, Rachael Brown, Nicanora Contreras, and Ariana
 Martinez allege the following as and for a complaint against Defendant Housing Authority of the
 County of Marin (hereinafter "Marin Housing Authority" or "MHA"), on behalf of themselves and
 all others similarly situated:

JURISDICTION

1
2 1. The Court has jurisdiction to grant the relief requested herein pursuant to the Civil
3 Rights Acts, 42 U.S.C. § 1983 *et seq.*, 28 U.S.C. § 1331 (Federal question), and §1343 (Civil rights)
4 based on violations of the United States Housing Act, 42 U.S.C. § 1437 *et seq.* This Court has
5 jurisdiction over claims under California's Unfair Competition Act, California Business and
6 Professions Code § 17200 *et seq.* pursuant to 28 U.S.C. § 1367 (Supplemental jurisdiction).

7 2. Venue in this Court is proper because the acts complained of occurred in the
8 Northern District of California, where Plaintiffs live and Defendant Marin Housing Authority is
9 incorporated and operates.

PARTIES**Plaintiffs****Jacquelyn Hall**

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13 3. Plaintiff Jacquelyn Hall has been a tenant of MHA since approximately 2002. She
14 currently rents an apartment from MHA at 3 Cole Drive, Marin City, California. She is a party to a
15 lease with MHA for the property.

16 4. Ms. Hall has been charged maintenance costs for repairs to her apartment that were
17 required due to the physical deterioration of the building, not as a result of any acts or omissions of
18 her or her guests.

19 5. In 2012, Ms. Hall has been charged amounts purporting to be additional rent, which
20 were in fact penalties assessed improperly as a result of MHA's failure to admit that she had filed
21 the documents necessary for MHA to conduct annual rental reassessments. Although the charges
22 were imposed in 2012, MHA claimed that they were imposed as a result of Ms. Hall's alleged
23 failure to turn documents in for either 2010 or 2011. When Ms. Hall complained that such charges
24 were wrongly assessed and declined to pay them, MHA deleted the "rent" charges and then
25 reassessed the same approximately \$508 amount as "document charges." MHA has also sent Ms.
26 Hall a 14-day notice for unpaid rent, which notice lists the \$508 as rent. Ms. Hall had in fact filed
27 all the requested documents with MHA in a timely fashion, but the then-manager of the housing
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1 complex had failed to submit them to his management. It was only this \$508 charge that caused
2 Ms. Hall's account to be delinquent.

3 6. MHA has applied amounts paid by Ms. Hall as monthly rent to charges for
4 maintenance, late fees or other expenses assessed against Ms. Hall, and has then issued a 14-Day
5 notice to Ms. Hall asserting improperly that she is delinquent in her rent payments, all due to
6 MHA's payment application procedures as described below.

7 7. Ms. Hall has been billed for "excess" utility charges, but such charges were not
8 accurate. Ms. Hall has repeatedly requested correction of such improper charges, but MHA has
9 failed and refused to correct such erroneous billings, and instead has applied payments made by Ms.
10 Hall for rent to cover such utility bills. MHA then subsequently declared Ms. Hall to have been late
11 in her payment of rent due to such improper deduction from her rental payments, and assessed Ms.
12 Hall late charges for such "delinquencies."

13 8. Ms. Hall requested a grievance hearing numerous times to permit her to contest the
14 various payment application procedures or improper charges alleged above, but MHA has failed to
15 afford Ms. Hall a hearing on her grievance requests, and instead threatened to commence an
16 unlawful detainer action against her by issuing a 14-day notice and ignoring her grievance request.
17 After approximately eight months of frequent complaints to MHA and requests for a hearing, Ms.
18 Hall enlisted a local charity to assist her in paying over \$2,000 to MHA, even though she believed
19 most of the charges to be inaccurate, in order to prevent an unlawful detainer action from being
20 filed against her.

21 9. On or around January 2012, MHA served Ms. Hall with a notice of termination of
22 tenancy and an unlawful detainer for alleged lease violations unrelated to payment issues. On this
23 occasion, Ms. Hall requested and was granted a grievance hearing to contest the allegations in the
24 notice. Ms. Hall prevailed at the hearing, but MHA insisted that she enter into a stipulated
25 agreement in order to have the unlawful detainer dismissed. As part of the stipulation, Ms. Hall was
26 required to pay MHA's legal fees. Ms. Hall protested because she did not believe she was obligated
27 to pay legal fees for an action in which she had prevailed; however, MHA indicated they would
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1 proceed with the eviction if she did not agree to the fees. Ms. Hall believes she paid approximately
2 \$1,700 to MHA through this stipulation, much of which went to legal fees.

3 10. In early 2012, Ms. Hall was assessed a \$70 maintenance fee when a maintenance
4 worker got his key stuck in her front door lock and had to change the lock. This incident was not
5 caused by any negligence on the part of Ms. Hall's household. Ms. Hall complained to MHA about
6 the fee and declined to pay it.

7 11. In June 2012, Ms. Hall's apartment flooded due to a defective toilet which was not
8 the result of negligence on the part of Ms. Hall's household. After losing thousands of dollars
9 worth of personal property, Ms. Hall was assessed an improper trash fee of \$72 to remove her own
10 property damaged in the flood. Despite Ms. Hall's protests, MHA has applied her monthly rent
11 payments each month since June 2012 to these outstanding maintenance and trash bills, causing Ms.
12 Hall to appear to be behind in rent.

13 12. On September 5, 2012, Ms. Hall received a letter from MHA indicating that her
14 account is "severely delinquent" which alleges a retroactive rent increase and asserts that she
15 submitted her recertification paperwork five weeks late. In fact, Ms. Hall had discussed the
16 recertification issue with an MHA representative in approximately May 2012, when she met with
17 them to turn in the check she had received from the charity. At that meeting, MHA management
18 indicated that Ms. Hall's account was current, and that the recertification paperwork had been
19 deemed timely. Following the September 5, 2012 letter, Ms. Hall feared she may receive another
20 14-day notice. She had repeatedly communicated with MHA for months to deal with the improper
21 maintenance fees and her alleged debt to MHA and the only MHA response was the "severely
22 delinquent" letter. Importantly, once MHA was given courtesy notice that this complaint would be
23 filed shortly, MHA contacted Ms. Hall and offered her a meeting time this week.

24 **Esther Williams**

25 13. Esther Williams has been a tenant of MHA since approximately 2000. She currently
26 resides at 99 Cole Drive, Unit 14, in Marin City, California. She is a party to a lease with MHA.

27 14. In 2011, Ms. Williams fell behind in her rent, and on August 7, 2011, received a 14-
28 day notice which stated that she was \$1,588.48 in arrears. She called the attorney who sent the

1 notice – and who had asked that she deal with MHA through him – informing him that she had the
2 funds necessary to pay that amount, and that she wanted to settle immediately. The attorney
3 informed her that he would check with his client and get back to her. Instead, on August 14, 2011,
4 the attorney's law firm filed an Unlawful Detainer proceeding against Ms. Williams in Marin
5 County Superior Court. She again contacted the attorney and reiterated her desire to pay the
6 amount due. She also became a client of the Legal Aid of Marin ("LAM"), which contacted
7 counsel and reiterated the desire to settle. Both counsel agreed that, due to the pending settlement,
8 no answer needed to be filed in the Unlawful Detainer proceeding.

9 15. Despite that agreement, however, counsel for MHA submitted a default judgment
10 request against Ms. Williams, and the Court entered the default judgment. MHA's counsel
11 subsequently agreed that such action was in error, and a stipulation to lift the default was filed.

12 16. Despite repeated requests, however, MHA failed to provide an amount that it would
13 accept in order to settle the case. Finally, in December, Ms. Williams's counsel at LAM was
14 informed by a new counsel at the firm that she had taken over the file, and that, in order to settle,
15 Ms. Williams would have to pay \$2,988.18 in rent and costs, and over \$2,474.24 in attorneys' fees
16 and costs.

17 17. Despite Ms. Williams's repeated requests for an explanation of the fees – and the
18 fact that the Marin County Superior Court had set fee guidelines for Unlawful Detainer proceedings
19 which should have generated attorney fees of no more than \$450 – no explanation or alteration of
20 the fees demanded was provided. Ms. Williams ultimately was forced to enter into a stipulated
21 payment plan under which she first paid the entire amount claimed due for rent and costs, and also
22 agreed to pay the attorneys' fees and costs demanded by MHA's counsel. As a result of this
23 improper payment requirement, Ms. Williams is in danger of being evicted again, as MHA applies
24 payments intended for rent to cover the payments allegedly due under the stipulation.

25 **Rachael Brown**

26 18. Rachael Brown has been a tenant of MHA since 2008. She currently resides at 409
27 Drake Avenue, Unit 21, in Marin City, California. She is a party to a lease with MHA.

1 19. Ms. Brown's lease contains a provision which sets out the circumstances under
2 which she may be charged "excess utility" charges by MHA. Ms. Brown was not charged any
3 excess utility charges until 2009, at which point she received a bill from MHA for "excess utilities"
4 for more than \$300. She immediately complained to MHA's manager about the charge and was
5 told that it was in error, and that the manager would correct it.

6 20. However, the charge was never corrected. Instead, MHA proceeded to apply
7 amounts paid by Ms. Brown as rent to reduce the excess utility charge. As a result, Ms. Brown
8 started incurring late charges, since her rent payments were being diverted to cover utility charges.

9 21. As a result of these practices, Ms. Brown was ultimately served a 14-day notice,
10 followed by an Unlawful Detainer proceeding commenced in Marin County Superior Court in
11 February 2012 – even though her request for a grievance was still open. Before the expiration of
12 the 14 day period, she tendered the amount of rent owed, but it was rejected because MHA
13 contended she owed more, due to its application procedures. She currently is facing trial and
14 eviction for what MHA contends are amounts due and owing for rent, when in fact what Ms. Brown
15 owes are unpaid utility charges which MHA has admitted are incorrect, and Ms. Brown did in fact
16 pay rent for many of the months alleged as unpaid in the notice, and provided proof of these
17 payments to MHA.

18 22. On September 13, 2012, at a settlement conference on MHA's Unlawful Detainer
19 proceeding to evict Ms. Brown, MHA required her to sign a release she did not want to sign as a
20 condition of settlement. At that point, unwilling to lose her housing and be thrown out on the street,
21 Ms. Brown, like many others before her, agreed to a settlement she did not like because the
22 alternative was risking possible homelessness.

23 **Nicanora Contreras**

24 23. Plaintiff Nicanora Contreras and her minor children have resided at 69 Cole Drive,
25 Unit 15, in Marin City, California, since approximately February 2008. She is a party to a lease
26 with MHA.

27 24. On or around February 8, 2012, Ms. Contreras was served with a Summons and
28 Complaint for Unlawful Detainer, based on nonpayment of rent. Ms. Contreras had paid rent for

1 many of the months listed in the notice. Ms. Contreras promptly contacted Plaintiff's counsel to
2 discuss the possibility of negotiating a payment plan to allow her to become current on her rental
3 payments and maintain her tenancy. Plaintiff's counsel informed Ms. Contreras that she would
4 consult with her client and get back to her, leading Ms. Contreras to believe that a repayment
5 agreement would be possible and leading her not to file an answer. But Ms. Contreras did not hear
6 back from Plaintiff's counsel. Instead, Plaintiff's counsel entered a default judgment against Ms.
7 Contreras on June 29, 2012. Ms. Contreras appeared in court on June 29, 2012, but since she was
8 approximately an hour late, a default judgment had already been entered.

9 25. Ms. Contreras writes "for rent" on her money orders, and receives receipts for each
10 tender. In addition, she was wrongfully charged a maintenance fee for repairs that were not due to
11 the negligence or the acts of any of her guests.

12 26. Ms. Contreras has now lost a motion to set aside the default in Marin County
13 Superior Court and has been evicted. Her time in which to file a writ of mandate to challenge the
14 eviction decision has not yet run.

15 **Ariana Martinez**

16 27. Plaintiff Ariana Martinez and her minor child have resided at 79 Cole Drive, Unit 6,
17 Marin City, since early 2011. She is a party to a lease with MHA.

18 28. Ms. Martinez has challenged the accuracy of MHA's rental calculations and
19 commenced a grievance on the issue pursuant to MHA's rules on August 6, 2012, after repeated
20 complaints to MHA regarding her rent calculations. Thus far, MHA has ignored the grievance
21 entirely and Ms. Martinez's grievance request remains pending. In addition, she has asked
22 repeatedly for a repayment plan to allow her to become current on her rent, but MHA has not
23 offered her such a plan.

24 29. In the interim, MHA is assessing Ms. Martinez late fees each month for alleged late
25 payment of charges other than rent, and for rental amounts that are in dispute and subject to a
26 grievance proceeding. MHA calculates the late fees by wrongfully including retroactive charges in
27 the amount MHA claims as rent.

1 30. Ms. Martinez is afraid she will be issued a 14-day notice and an unlawful detainer
2 due to these issues.

3 **Class Claims Are Inherently Transitory and Are Capable of Repetition Yet Evading Review**

4 31. The claims of the class of past and present tenants herein are inherently transitory in
5 nature. MHA's actions – (a) in evicting tenants who cannot obtain counsel or do not respond to
6 Unlawful Detainer actions, (b) in coercing subjects of wrongful Unlawful Detainer proceedings to
7 settle their cases and release their claims against MHA, rather than risk eviction from low-income
8 Public Housing, possibly forever, and (c) in ignoring claims asserted under MHA's grievance
9 procedure, but instead issuing 14-day notices and/or commencing Unlawful Detainer proceedings to
10 evict tenants before their grievance can be adjudicated – will routinely cause the individual tenant
11 claims to become moot. The class asserts claims against consistent and long-standing practices and
12 procedures of MHA, which impact every MHA tenant.

13 32. The claims of the class of past and present tenants herein are capable of repetition yet
14 avoiding review, as tenants forced to settle Unlawful Detainer proceedings to avoid eviction still
15 face the likelihood that – without changes in MHA's practices – they will become involved in the
16 same controversy in the future, and MHA's wrongful practices complained of herein will clearly
17 impact other class members in the future as well.

18 33. Since becoming aware that this complaint would be filed, MHA has taken steps in
19 connection with pending Unlawful Detainer claims or demands for payment based on the claims of
20 wrongdoing raised herein in an attempt to render moot claims by potential class representatives. In
21 addition, MHA has, after long delays with respect to grievance requests, suddenly tried to schedule
22 hearings in advance of LAM's September 20th filing date for the instant complaint. Nonetheless,
23 named Plaintiffs herein who have been subject of this strategy to "pick off" prospective class
24 representative plaintiffs have a cognizable economic interest in the certification of a class action
25 asserting the claims set forth herein, have the ability to fairly and adequately protect the interests of
26 the class, and maintain an adversary relationship with MHA sufficient to adequately sharpen the
27 presentation of issues presented at trial.

28 ///

Classes of Plaintiffs For Whom Claims Are Asserted

34. This Complaint seeks relief on behalf of three classes of MHA past and present tenants as follows:

A. Class A includes all current MHA tenants who seek, *inter alia*:

(1) to enjoin MHA wrongful actions which violate their due process rights to federal Public Housing benefits and constitute unlawful, fraudulent and unfair business practices;

(2) to have their account with MHA corrected so that all charges are properly calculated and all tenant payments have been properly credited;

(3) to have all of their rent payments applied first to rent by MHA, all wrongful late fees charges be withdrawn, and resulting rent deficiencies, if any, be duly segregated from amounts owed for charges other than rent;

(4) to obtain adequate, written notice from MHA to accurate current amounts due, if any, and the opportunity to enter into a Repayment Agreement with MHA, if necessary, to facilitate the payment of outstanding charges;

(5) to have late payments calculated only on the basis of rent payment deficiencies;

(6) to require MHA to make a determination whether any repair or maintenance service on any tenant's apartment was made necessary by an act or failure to act of tenant, tenant's family or guests, to give adequate written notice of this decision and its basis to tenants to allow tenants to commence a grievance challenging such a ruling, and avoid commencing Unlawful Detainer proceedings until a final decision has been issued and adequate opportunity for payment has been provided; and,

(7) to require MHA to put in place a meaningful and effective grievance procedure and provide adequate written notice thereof and require MHA not to commence Unlawful Detainer proceedings until a final decision on grievance procedures addressing the claims at issue in such Unlawful Detainer proceedings have been transmitted, with adequate additional time for payment.

B. Class B includes all current MHA tenants who have had Unlawful Detainer proceedings wrongfully commenced against them – or as to whom outstanding 14-day notices have been served on them – who seek:

1 (1) an order requiring MHA to set aside all outstanding defaults and dismiss their
2 outstanding Unlawful Detainer proceedings; or,

3 (2) an order requiring MHA to withdraw their outstanding 14-day notices.

4 C. Class C includes all past and current MHA tenants who have been wrongfully
5 assessed legal fees, excess utility fees, maintenance charges or other wrongful charges, and seek
6 restitution of those charges together with 10% legal interest per annum.

7 **Defendant Marin Housing Authority ("MHA")**

8 35. Defendant Marin Housing Authority is a Public Housing Authority ("PHA") under
9 the United States Housing Act of 1937, at 42 U.S.C. § 1437 *et seq.* As set forth in MHA's own
10 guidelines – "MHA was established in 1942 by an act of the California legislature and is a public
11 corporation authorized to provide decent, safe, and sanitary housing for low and moderate income
12 people. Marin Housing Authority receives its operating subsidy for the public housing program
13 from the Department of Housing and Urban Development. MHA is not a federal department or
14 agency. A Public Housing Authority (PHA) is a governmental or public body, created and
15 authorized by state law to develop and operate housing and housing programs for low-income
16 families. MHA enters into an Annual Contributions Contract with HUD to administer the public
17 housing program. MHA must ensure compliance with federal laws, regulations and notices and
18 must establish policy and procedures to clarify federal requirements and to ensure consistency in
19 program operation."

20 36. MHA oversees 3,000 low-rent tenants through its Public Housing and Housing
21 Choice Voucher programs, owns and operates approximately 600 units of public housing, interacts
22 with 2,100 housing choice voucher holders and acts as the primary source for low-income housing
23 in Marin County, California. MHA operates housing for more than 9,000 residents of Marin
24 County.

25 37. MHA carried out the actions and practices complained of herein – and promulgated
26 and applied the lease provisions and other MHA guidelines complained of herein – under color of
27 state law as a Public Housing Authority under the United States Housing Act and the regulations
28 promulgated thereunder.

GENERAL ALLEGATIONS

The Public Housing Program and The United States Housing Act

38. Under the United States Housing Act 42 U.S.C. § 1437 *et seq.* (“the Act”), state authorized Public Housing Authorities provide subsidized housing and housing vouchers to people with low incomes under an extensive set of rules set forth in the Act and in the enabling regulations promulgated by the Department of Housing and Urban Development (“HUD”), 24 CFR 900 *et seq.* This class action under 42 U.S.C. § 1983 is predicated upon MHA’s deprivation of federal statutory rights provided MHA tenants under the United States Housing Act and its enabling regulations.

39. The cost to tenants of housing provided under the Act is often much lower than otherwise available comparable housing. For those eligible for public housing under the Act, what tenants will pay for rent is calculated as a function of their income, and Public Housing Authorities are permitted to seek eviction on 14 days’ notice in Unlawful Detainer actions only for non-payment of rent.

40. The Act also requires Public Housing Authorities to make specific calculations to set a utility allowance for each tenant, which is included within the rent amount that was to be set forth in each lease as a set dollar amount, *i.e.* the utility charges estimated as the utility allowance could not be assessed in addition to rent where the Public Housing Authority provided utility service to tenants. Public Housing Authorities may charge excess utility charges, if they follow regulatory calculation requirements, along with late fees for non-payment of rent only and maintenance charges for repairing tenant caused damage.

41. Under the Act, however, the legal right to Public Housing cannot be terminated through a summary Unlawful Detainer eviction proceeding for non-payment of charges other than rent, and Public Housing Authorities must resort to a 30-day notice and a much longer legal procedure to obtain an eviction. The right not to be summarily evicted from Public Housing on 14 days’ notice for debts to a Public Housing Authority for debts other than rent is critical to tenants trying either to obtain necessary funds to meet their debts and/or obtain legal counsel to raise defenses to such an eviction.

42. In Marin County, for example, eviction through an Unlawful Detainer proceeding on 14 days' notice can occur very quickly. MHA must file a "3-day Notice to Pay or Quit." Thereafter, an Unlawful Detainer complaint may be filed. Once a tenant is served, he/she has five days to file an answer. If the tenant does not file an answer, a default can be entered on the sixth day and the sheriff can lock the tenant out five days later. If the tenant files an answer, the landlord can request a trial on the sixth day, which is normally scheduled 10 to 20 days out. Thus, a tenant who answers will have only 16 to 25 days from service of Unlawful Detainer papers to prepare a defense – 30 to 40 days from service of the 14-day notice – to gather proof of payments and/or come up with enough money to reach a satisfactory settlement with MHA.

43. On the other hand, a landlord under the United States Housing Act must give 30 days' notice to commence eviction proceedings for debts other than rent to tenants who have lived in their Public Housing unit for less than a year. Those who have lived in their units for more than a year – the vast majority of MHA tenants – must be given 90 days' notice. Trial after filing of an answer then can be scheduled in 15 to 25 days. Thus, the vast majority of MHA tenants have 105 to 120 days to deal with threatened eviction for debts other than rent – as opposed to 30 to 40 days when faced with eviction on 14 days' notice for failure to pay rent. This additional time often provides MHA tenants a much greater opportunity to obtain the funds necessary to avoid eviction through settlement and/or to obtain effective legal counsel to assert all appropriate defenses, so that the tenant does not lose access to low cost Public Housing.

44. Under the Act, eviction from public housing – either for failure to pay rent or failure to abide by occupancy rules – essentially bars the evicted tenant from ever obtaining public housing in the future. Moreover, if a tenant is otherwise eligible for public housing in a different location, any outstanding balance the tenant has from a previous public housing tenancy must be paid off before they will be admitted to tenancy through a different PHA. Public housing tenants, therefore, are in an intrinsically weak bargaining position when negotiating with Public Housing Agencies to settle Unlawful Detainer actions to evict them.

45. Public Housing Authorities may not include unreasonable terms and conditions in their leases, are required to provide meaningful grievance procedures to deal with disputes with

tenants, and may not commence Unlawful Detainer proceedings while a grievance concerning the amount of rent owed is pending.

Marin Housing Authority Leases

46. MHA enters into annual leases with each tenant of the housing owned or administered by MHA. The content of those leases are governed by the provisions of 42 U.S.C. § 1437 *et seq.*, and by the regulations promulgated thereunder, which appear at 24 CFR § 900 *et seq.* Upon information and belief, at all times hereto relevant (with the exception of the excess utilities provision noted below), the leases entered into between MHA and the tenants, Plaintiffs hereunder, and the members of the named classes, contained the following provisions:

(a) The tenant's rent was to be set out as a fixed amount, and included an allowance for utilities being paid on the tenant's behalf by MHA.

(b) MHA was empowered to evict tenants in fourteen days (14) only in case of failure to pay rent – through an Unlawful Detainer action – but not for the failure to pay charges other than rent that tenants became obligated to pay thereunder.

(c) MHA was obligated to pay for repairs to any dwelling or appurtenance thereto, at its own expense, except only where the need for the repair was caused by the tenant, persons in the tenants household and tenant guests.

(d) The tenant could be charged for excess utilities, only provided MHA followed certain enumerated rules regarding notice to the tenant and the calculation of such excess utilities.

(e) Tenants had the right to a formal grievance hearing governed by federal regulations if they felt that the MHA was acting improperly in regards to the matters covered by the lease – specifically including the validity the amount claimed due as rent in a notice to quit in an eviction proceeding – unless that notice to quit was predicated on criminal, violent or drug related activities of a tenant. Grievance requests are to be responded to within 10 days.

47. These leases did not contain any provisions which stated that MHA was entitled to attorneys' fees based of any kind, including legal fees billed to MHA by attorneys hired by MHA to prosecute Unlawful Detainer proceedings or negotiate settlements thereof.

1 48. Applicable federal law and regulations requires that MHA-tenant leases be reviewed
2 and renewed at least annually. Starting in January 2012, MHA has altered the lease terms for its
3 new leases to require that tenants enter into contracts with the local utility for gas and electricity. At
4 the time of these changes, Plaintiffs are informed and believe and based thereon allege that MHA
5 reduced the rent due from the tenants entering into such new leases by a sum it contended was equal
6 to the earlier utility allowance that had been included in the amount set out in the lease as rent.

7 **Established MHA Practices In Dealing With Tenants**

8 49. MHA has implemented the following practices with respect to all tenants in MHA
9 owned or administered property:

10 (a) MHA applies any payment by the tenants to the following charges in the following
11 order: (1) security deposits, (2) other charges, including document fees and late fees, (3) legal fees,
12 (4) excess utility charges, (5) maintenance charges, (6) retroactive rent, and – last – (7) current rent.

13 (b) Instead of providing bills to tenants on a monthly basis, including all charges other
14 than rent that MHA has assessed against a tenant, MHA often delays informing the tenant of the
15 amount that it contends are delinquencies in rent for long periods – in many cases six months or
16 more – and as a result, tenants receiving such notices of delinquent rent often cannot possibly pay
17 the very large, allegedly past-due amounts to avoid eviction by MHA.

18 (c) MHA routinely ignores MHA tenants' declarations on checks submitted to pay rent
19 that the check is provided only to pay a specific month's rent, and instead applies such payments as
20 set out in paragraph 49 (a) above.

21 (d) When tenants made timely payments of the dollar amount of rent specified in the
22 leases, but MHA's policy of using such payments to satisfy other unpaid charges first created
23 artificial deficiencies in rent payments when none actually existed – or wrongfully and materially
24 increased the amount of MHA's claims of rent due – MHA routinely commenced Unlawful
25 Detainer actions on 14 days' notice to evict tenants based on such delinquencies. Upon information
26 and belief, these practices led to evictions that otherwise would not have occurred. This practice
27 constitutes a breach by MHA of the provisions of its leases.

1 (e) Upon information and belief, MHA also routinely seeks to evict tenants on 14 days'
2 notice through an Unlawful Detainer proceeding based on an error plagued accounting system
3 which produces knowingly inaccurate statements of amounts of rent owed by the tenant.

4 (f) When issuing a 14-day notice to the tenant setting out what MHA contends are
5 delinquent rent payments, or when filing such notices with California courts as part of an Unlawful
6 Detainer proceeding to evict the tenants, MHA's statements of rent due presented to the Superior
7 Court in Marin County do not list any payments received from the tenants, nor amounts due not for
8 rent but for "other charges" such as maintenance or late charges. As a result, the delinquency notice
9 is knowingly inaccurate, and improperly and misleadingly gives the impression – especially when
10 used in court in Unlawful Detainer proceedings – that the tenant has in fact made no payments
11 during the entire period in question and that the amount MHA contends to be rent due is accurate.

12 (g) All payments from tenants for rent and all other charges are applied by MHA to
13 cover the oldest outstanding charge set out in MHA's records – in the order of application noted
14 above – whether such charge was for rent or not, whether or not the charge was accurate, and
15 regardless of tenants expressing their intent that the money go towards rent. If such order of
16 application resulted in such tenant payments being insufficient to cover rent, MHA assessed a "late
17 charge," even though the Act permits assessment of "late charges" only on rent due, not due to the
18 non-payment of other charges.

19 (h) MHA also regularly utilizes its practice of including charges other than rent in the
20 notices it uses to commence Unlawful Detainer proceedings to create artificial deficiencies in rent
21 payments, or to materially and wrongfully increase the amount of such deficiencies. MHA then
22 uses this false and inaccurate data, together with the pendency of the Unlawful Detainer proceeding,
23 to successfully coerce tenants to enter into settlement agreements which result in the payment of
24 charges other than rent and the release of the tenant claims against MHA. These coerced
25 settlements also frequently require the tenant to pay legal fees and costs, assessed by MHA even
26 though MHA leases contain no provisions which authorize collection of legal fees under California
27 law and even though there has not been a court order in litigation declaring MHA the prevailing
28 party.

(i) On information and belief, the units owned and managed by MHA are old and decrepit, and MHA has failed to expend amounts reasonably necessary to keep such buildings in the most basic state of repair. Instead, whenever a tenant requests maintenance on his unit, or notifies MHA of a defective condition (*e.g.* for leaky pipes, flooding, electrical faults, jammed doors, mold and mildew) and MHA sends a repair crew to respond to the problem, MHA routinely assess a maintenance charge against the tenant (1) despite the fact that the leases pertaining to such tenants contain no provisions permitting such assessment, and/or (2) despite MHA's failure to take any steps necessary to determine whether a given repair is in fact the tenant's fault – as required by statute and regulation – or is rather the result of MHA's failure to adequately maintain the buildings. MHA regularly utilizes these charges to commence Unlawful Detainer actions to evict tenants for other than non-payment of rent and coerce unfair settlements. The practice of charging tenants for repairs for which they are not responsible constitutes a breach of MHA leases.

(j) MHA's leases contain provisions which set out the specific calculations and requirements MHA must use if it decides to assess tenants for "excess utility charges," defined as the amount by which actual utility charges for a rental unit exceed the "utility allowance" which must be calculated by Public Housing Authorities under applicable regulations as the expected utility charges for its rental units. This "utility allowance" is incorporated by law into the rent payments calculated for each tenant as a function of their income – such that the "utility allowance" is deemed paid through the tenant's payment of the amount so calculated as rent. Upon information and belief, however, MHA's calculation of "excess utility charges" violates statutory and regulatory requirements and is randomly inconsistent, resulting in "excess utility charges" so large as to suddenly subject tenants to unreasonable charges that are multiples of their monthly rent and far exceed their monthly income. This wrongful calculation of "excess utility charges" was regularly utilized to commence Unlawful Detainer proceedings and coerce unfair settlements, and violated MHA leases with its tenants.

(k) When MHA engages counsel to file an Unlawful Detainer action, or prepare for one, and the tenant decides he/she needs to settle the matter, MHA insists that the tenant pay its attorneys' fees and costs as a condition of being permitted to remain in public housing, despite the

fact that federal law precludes the assessment of legal fees when not legally authorized and where no court has issued an order declaring that MHA has prevailed in litigation. MHA uses the threat of eviction, and the consequent inability of the tenants to secure PHA units after such an eviction, to coerce tenants to pay attorneys' fees without any legal basis for such claim.

(l) In addition, MHA counsel charge rates for attorney time that are unreasonably high – far in excess of what the Marin County Superior Court has fixed as appropriate for Unlawful Detainer actions and in excess of attorney fees normally charged for unlawful detainer cases in the San Francisco Bay Area – charges that are not supported by any time records to justify reasonableness.

(m) When a tenant requests a grievance hearing to complain about charges being levied, or other acts of MHA, MHA fails and refuses to schedule a hearing to evaluate the tenants' complaints, rendering the MHA's grievance process a nullity and offering no due process whatsoever with regard to those complaints, in violation of applicable statutes and regulations. Instead, while the request for a grievance hearing is pending, MHA often moves to evict the tenant for non-payment of rent. This failure to provide a reasonable grievance procedure as required by the federal law constitutes a breach of MHA leases with its tenants.

(n) MHA routinely refuses to offer Repayment Agreements, even though such agreements are required of MHA under its own guidelines and even though the tenant involved has met all applicable conditions to obtaining such a Repayment Agreement that MHA has published.

(o) If these numerous, serious violations of law in MHA's collection practices were not enough, MHA made it clear as recently as June 11, 2012 – in a notice sent to all tenants – that MHA had decided to undertake even more aggressive collection actions and provide tenants with less information about what MHA claims they owe and less opportunity to prove that they in fact made a rent payment to MHA. This letter indicated that in the future, tenants (1) will not receive a regular statement showing their balance with MHA, (2) MHA will no longer give receipts to tenants when they make payments to MHA, and (3) MHA intends to pursue a "more aggressive rent collection procedure." Such a procedure will exacerbate the problems created by the flawed, illegal and

misleading collection practices MHA now undertakes, as set forth herein, and will increase the likelihood of public housing residents being wrongfully evicted from MHA housing.

Plaintiffs' Class Status Under Rule 23

50. As set forth in the First Cause of Action below, Plaintiffs assert class action claims under 42 U.S.C. § 1983 based upon acts and practices of Defendant MHA undertaken through state action, wrongfully depriving Plaintiffs of federal rights provided under the United States Housing Act, 42 U.S.C. § 1537 *et seq.*, and the regulations promulgated thereunder.

51. The named Plaintiffs herein sue as representatives of, and on behalf of, all similarly situated current and former tenants of MHA who are or have been affected and damaged by the practices of MHA set forth herein, under Rule 23 of the Federal Rules of Civil Procedure. Plaintiffs meet all of the requirements of Rule 23(a)(1–4) as follows:

A. Numerosity

(1) Plaintiffs in all classes lack the financial ability to maintain individual lawsuits challenging MHA practices, such that a class action suit maintained by representative Plaintiffs is their only means of redress for MHA's violations of the United States Housing Act.

(2) The identity of many class members is unknown, because many tenants are wrongfully coerced into making payments and/or accepting forced settlements of alleged indebtedness to MHA rather than face possible retaliation and eviction.

(3) The classes of current and former MHA tenants impacted by MHA violations of the United States Housing Act renders individual claims so numerous as to render joinder impracticable. The Defendant or its agents and employees are believed to have knowledge of the number of plaintiffs in classes A, B, and C, as defined above. The number of members of classes A and B are believed to consist of hundreds of current and former MHA tenants; the number of members of class C are believed to consist of over a thousand.

(4) Upon information and belief, the identities of class members can be readily determined from records maintained by Defendant and its agents.

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///

1 **B. Commonality**

2 **Questions of Fact Common to the Class**

3 (1) Does MHA regularly apply payments for rent – whether or not by checks
4 stating that they are for “Payment of rent” – to all other charges first, and rent last?

5 (2) Does MHA regularly commence or threaten to commence Unlawful Detainer
6 proceedings alleging amounts of rent due from the tenant that actually include charges other than
7 rent?

8 (3) Is MHA’s accounting system materially flawed such that MHA often
9 knowingly produces inaccurate statements of rent owing which do not reflect payments made by
10 tenants, and knowingly uses such inaccurate statements to commence Unlawful Detainer
11 proceedings?

12 (4) Does MHA coerce tenants to reach settlements with MHA on claims of
13 tenant indebtedness for rent by commencing or threatening to evict tenants through Unlawful
14 Detainer proceedings based on the assessment of charges other than rent, thereby threatening to
15 prohibit such tenants from ever again obtaining Public Housing in the event that they proceed to
16 trial and lose?

17 (5) Does MHA’s application of payments practices cause MHA to assess late
18 charges for non-payment of charges other than rent?

19 (6) Does MHA assess excess utility charges in a manner other than that required
20 pursuant to 24 CFR 965.506, resulting in the assessment of higher charges than would result from
21 proper calculation thereunder?

22 (7) Does MHA assess maintenance charges for each maintenance visit,
23 regardless of whether the maintenance or repair involves damage to the premises caused by tenants?

24 (8) Does MHA assess legal fees where there has been no determination of
25 prevailing party by a court in litigation and require MHA tenants to pay such fees as a condition of
26 any settlement of Unlawful Detainer proceedings?

(9) Does MHA fail to provide meaningful grievance procedures pursuant to the requirements of the United States Housing Act, to deal with tenant disputes with MHA, by routinely failing to schedule conferences or hearings to deal with such grievances?

(10) Does MHA commence Unlawful Detainer proceedings to evict tenants in spite of the tenants outstanding filed grievance hearing requests to contest an alleged debt to MHA – *inter alia*, wrongful assessment of charges, wrongful applications of rent payments, failure to credit tenant payments as to tenant indebtedness, or wrongful assessment of maintenance charges, excess utility charges or legal fees – prior to commencement of such Unlawful Detainer proceedings?

(11) Has MHA undertaken unlawful, misleading and unfair business practices under B&P Code §17200, *et seq.*?

Questions of Law Common To The Class

(1) Does MHA's payment application scheme, and MHA's frequent, general failure to accurately calculate rent owed by tenants, cause the commencement of Unlawful Detainer actions to evict tenants for artificial delinquencies, or amounts significantly greater than actual rent owed pursuant to the United States Housing Act and its enabling regulations?

(2) Does MHA's application of payment rules violate the United States Housing Act by resulting in the wrongful assessment of late charges due to non-payments of charges other than rent?

(3) Does MHA's actions pursuant to ACOP Section 8.1F entitled "Payment Application" – under MHA's erroneous claim that such policies have been properly incorporated into MHA leases – constitute an unreasonable term and condition in MHA leases in violation of the United States Housing Act?

(4) Does MHA's collection of maintenance charges for maintenance visits unrelated to tenant or guest damage to rental apartments violate the United States Housing Act?

(5) Does MHA's collection of attorneys' fees and costs, where no such right to attorneys' fees is set forth in the subject MHA leases and no party has been determined by a court to be the prevailing party in litigation, violate the United States Housing Act?

1 (6) Does MHA's collection of attorneys' fees and costs – under its unilaterally
2 adopted and contractually unincorporated ACOP – constitute an unreasonable term and condition in
3 leases, in violation of the United States Housing Act?

4 (7) Does MHA's practices in wrongfully assessing excess utility charges violate
5 the United States Housing Act?

6 (8) Does MHA's failure to schedule grievance proceedings – and its utilization
7 of Unlawful Detainer proceedings to evict tenants during the pendency of wrongfully delayed
8 grievance proceedings – constitute a violation of the United States Housing Act?

9 (9) Does MHA's extensive delays in scheduling grievance hearings violate the
10 requirements of the United States Housing Act?

11 (10) Should MHA be ordered to make restitution of wrongfully calculated excess
12 utility charges, maintenance charges for services not made necessary by acts of its tenants and
13 unauthorized legal fees assessed in violation of the United States Housing Act?

14 **C. Typicality**

15 (1) Ms. Hall's claims are typical of class claims for violation of the United States
16 Housing Act relating to the wrongful commencement of Unlawful Detainer proceedings based on
17 allegations of rent due which include charges other than rent, the wrongful assessment of
18 maintenance charges when the tenants or guests did not cause the need for repair, the wrongful
19 assessment of excess utility charges in violation of applicable regulations, the failure to provide a
20 meaningful grievance procedure, and the effective adoption of unreasonable terms and conditions in
21 MHA leases.

22 (2) Ms. Williams's claims are typical of class claims for violation of the United
23 States Housing Act related to the wrongful commencement of Unlawful Detainer proceedings based
24 on allegations of rent due which include charges other than rent, and the wrongful assessment and
25 collection of legal fees through the coercive filing of Unlawful Detainer proceedings based on
26 allegations of amounts of rent due, which includes charges other than rent.

27 (3) Ms. Brown's claims are typical of class claims for violation of the United
28 States Housing act related to the wrongful commencement of Unlawful Detainer proceedings based

on allegations of rent due which includes charges other than rent, the wrongful assessment of excess utility charges in violation of applicable regulation, the failure to provide a meaningful grievance procedure, the commencement of Unlawful Detainer actions while a grievance was pending, and the assessment of late fees based on charges other than rent.

(4) Ms. Contreras's claims are typical of class claims for violation of the United States Housing act related the wrongful commencement of Unlawful Detainer proceedings based on allegations of rent due which include charges other than rent, the wrongful assessment of maintenance charges when the tenants or guests did not cause the need for repair, and the consequent attempt by MHA to evict tenants even though full rental payments have been tendered.

(5) Ms. Martinez's claims are typical of class claims relating to MHA's knowing use of inaccurate calculations in claiming rent due its tenants, the failure to provide a meaningful grievance procedure, and the wrongful assessment of late charges on the non-payment of charges other than rent.

D. Adequacy of Representation

52. The named Plaintiffs can fairly and adequately protect the interests of the class. Plaintiffs have retained counsel experienced in litigating complex class actions, have significant knowledge of the United States Housing Act and enabling regulations, have significant experience representing tenants in litigation against Public Housing Authorities, and specifically the Marin Housing Authority, and who have committed significant resources to conducting this litigation. Plaintiffs' counsel are litigating this case on a contingency basis.

53. A class action is proper herein under Rule 23(b)(2) because MHA has acted, and refused to act, on grounds generally applicable to the class of MHA tenants on whose behalf this action is brought, thereby rendering declaratory and injunctive relief appropriate with respect to the class as a whole through –

(a) The declaration that MHA practices complained of herein constitute state action in violation of 42 U.S.C. § 1983, through the deprivation of federal statutory rights afforded MHA tenants under the United States Housing Act; and,

(b) An injunction barring such MHA practices, policies and procedures and requiring revision thereof to meet legal requirements.

54. Prosecuting the claim of MHA tenants for restitution as a class action is superior to any other methods for fair and efficient adjudication of the controversy because class members have no interest in individually controlling the prosecution of separate actions, as individual prosecutions would be uneconomic, would impose heavy burdens on the parties, and would create risk of inconsistent adjudications. In addition, it is unlikely that there will be any significant difficulties in managing this case as a class action.

55. A final judgment on the merits of Plaintiffs' claims would be fully dispositive of the claims and interests of others similarly situated who are not specifically named as plaintiffs and would be the optimum mode of decision in terms of judicial efficiency and avoidance of piecemeal adjudication.

FIRST CAUSE OF ACTION

42 U.S.C. § 1893 and 42 U.S.C. § 1437 *et seq.*

Class Action Claim For Permanent Injunction Against Deprivation of Rights Under United States Housing Act

56. Plaintiffs hereby incorporate by reference the allegations of paragraphs 1 – 55 herein.

57. MHA violated 42 U.S.C. § 1983 through the acts and practices complained of herein that were undertaken under color of state law and wrongfully deprived Plaintiffs of federal rights provided under the United States Housing Act, 42 U.S.C. § 1537 *et seq.*, and the regulations promulgated thereunder, by *inter alia* –

(a) Commencing Unlawful Detainer actions upon 14 days' notice on claims of rent owing, which include charges other than rent;

(b) Assessing late charges relating to non-payment of charges other than rent;

(c) Charging amounts for excess utilities calculated in violation of applicable regulations;

(d) Assessing maintenance fees when neither the tenant or guests were responsible for the condition needing repair and/or failing to determine, as required, whether tenants are responsible for conditions needing repair or not;

(e) Commencing Unlawful Detainer actions even when the tenant has previously filed a grievance related to the amount of rent or other charges owed and MHA's right to evict the tenant;

(f) Failing to provide a meaningful grievance procedure, required by the United States Housing Act, to deal with disputes between MHA and its tenants; and,

(g) Assessing legal fees in clearly unreasonable amounts when MHA has not been adjudicated by a court to be the prevailing party in litigation.

58. MHA's purported attempt to incorporate its "Admissions and Continued Occupancy" manual into MHA leases with its tenants is confusing and misleading and does not meet the requirements of California law for the incorporation of a separate document into a lease. Upon information and belief, the vast majority of MHA's tenants have no idea what the "Admissions and Continued Occupancy" manual ("ACOP") is – or that MHA contends that tenants must abide by all the provisions found in its 275+ pages – since MHA leases do not specifically incorporate the ACOP into the leases, only refer to the ACOP in connection with MHA decisions as to changes in unit size and unit transfers, and is not one of the eight documents attached to the lease.

59. MHA violated 42 U.S.C. § 1983, acting under color of state law, and wrongfully deprived Plaintiffs of federal rights provided under the United States Housing Act, 42 U.S.C. § 1537 *et seq.*, and the regulations promulgated thereunder, by unilaterally adopting its ACOP, erroneously purporting that the ACOP was effectively incorporated into all MHA leases, and acting accordingly, thereby effectively adopting unreasonable lease terms and conditions, which –

(a) Facilitate the commencement of Unlawful Detainer proceedings based on allegations of rent due that include charges other than rent;

(b) Permit the assessment of late fees based on non-payment of charges other than rent; and,

(c) Purport to permit assessment of legal fees even where MHA has not been adjudicated by the court as a prevailing party in litigation.

60. A permanent injunction is necessary to prohibit MHA from such statutory violations in the future. Without such permanent injunctive relief, the class for which this action is

1 commenced will be irreparably harmed by MHA's illegal practices. Absent such permanent
 2 injunctive relief, substantial injury to the class will occur which cannot be adequately remedied at
 3 law.

4 **SECOND CAUSE OF ACTION**

5 **42 U.S.C. § 1893 and 42 U.S.C. § 1437 *et seq.***

6 **Class Action Claim For A Declaratory Judgment That MHA Practices Wrongfully Deprive Plaintiffs of Rights Provided Under the United States Housing Act**

7 61. Plaintiffs hereby incorporate by reference the allegations of paragraphs 1 – 60 herein.

8 62. An actual controversy has arisen and now exists between class Plaintiffs and MHA
 9 as to whether MHA practices complained of herein constitute violations of 42 U.S.C. § 1983 for
 10 deprivation of rights provided Public Housing Authority tenants under 42 U.S.C. § 1437 *et seq.*

11 63. A declaratory judgment is necessary in that Plaintiffs contend that MHA's practices
 12 complained of herein constitute violations of 42 U.S.C. § 1983 for deprivation of rights provided
 13 Public Housing Authority tenants under 42 U.S.C. § 1477 *et seq.* and MHA claims that it has not
 14 deprived its tenants of such rights.

15 **THIRD CAUSE OF ACTION**

16 **California Business & Professions Code § 17200 *et seq.***

17 **For A Permanent Injunction Against Unlawful, Misleading and Unfair Business Practices**

18 64. Plaintiffs hereby incorporate by reference the allegations of paragraphs 1 – 63 herein.

19 65. MHA's multiple violations of the United States Housing Act as set forth herein
 20 constitute unlawful business practices under Business and Professions Code § 17200 *et seq.*

21 66. MHA also has undertaken unlawful business practices, as follows:

22 (a) By knowingly issuing inaccurate 14-day notices – for all the reasons set forth
 23 herein – MHA violated the requirement of California Code of Civil Procedure § 1161 for a full and
 24 accurate statement of amount of rent due and owing;

25 (b) By assessing unconscionably high legal fees when it has no legal authority
 26 whatsoever to do so – in violation of California law that legal fees are recoverable only when
 27 reasonable if authorized by contract or statute; and,
 28

(c) By refusing to apply tenant payments only to rent due, and instead wrongfully applying such payments to other charges as described herein, in violation of California Civil Code § 1479.

67. MHA has undertaken fraudulent business practices under Business & Professions Code 17200 *et. Seq.*, through representations likely to deceive members of the public seeking to become tenants in Public Housing Projects, and those who become tenants, by:

(a) Issuing inaccurate 14-day notices which fail to correctly calculate rent due and which characterize other charges as rent pursuant to MHA's policy of applying tenant payments to all other charges first and rent last;

(b) Issuing 14-day notices which intentionally fail to show any payments received from the tenants, or if MHA has applied payments to "other charges" as opposed to rent. As a result, the delinquency notice is inaccurate and misleading and deceives the tenants involved and courts which hear Unlawful Detainer proceedings based on such notices;

(c) Issuing inaccurate statements of rent due to tenants which fail to correctly calculate rent due, including through MHA's payment application policy;

(d) Including in MHA leases misleading descriptions of what additional documents are purportedly incorporated by reference into MHA leases, which is likely to mislead tenants as to their obligations under the leases;

(e) Issuing lease provisions and policies which purport to make disputes related to the non-payment of rent and potential eviction subject to formal grievance procedures, only to inordinately delay grievance proceedings and commence Unlawful Detainer proceedings while such grievance procedures are pending;

(f) Issuing lease provisions and policies which purport to make tenant disputes with MHA subject to formal grievance procedures, where such procedures are actually either non-existent or inordinately delayed, misleading tenants into failing to take legal action in court to remedy MHA's wrongdoing;

(g) Intentionally failing to notify tenants for six months or more of charges other than rent that MHA alleges are due and owing – (1) misleading tenants who regularly pay the amount of

1 their rent as stated in their MHA lease that they are not in arrears, (2) secretly building large
 2 arrearages, and (3) using them as the basis of Unlawful Detainer proceedings, all of which leave
 3 tenants little or no opportunity to clear the debt and avoid eviction; and,

4 (h) Assessing unreasonably high excess utility charges upon the representation that such
 5 charges have been calculated pursuant to applicable federal regulation, when in fact they have not
 6 been so calculated, misleading tenants into believing that they are validly liable for such charges.

7 68. MHA has undertaken, and continues to undertake, unfair business practices pursuant
 8 to Business & Professions Code § 17200, by:

9 (a) Undertaking the acts set out in paragraph 66 (b) and (c) and paragraph 67 herein; and

10 (b) Refusing to offer Repayment Agreements, in breach of MHA's own policies, even
 11 though tenants meet all applicable conditions to obtaining such a Repayment Agreement.

12 69. The unfair business practices set forth in paragraph 68 above:

13 (a) Substantially injure MHA tenants – consumers of MHA housing;

14 (b) Which injury is not substantially outweighed by any countervailing benefits to
 15 consumers or competition; and,

16 (c) Which injury could not have been reasonably avoided by the consumers themselves.

17 70. Alternatively, the unfair business practices set forth in paragraph 68 above:

18 (a) Offend public policy established by statute and common law;

19 (b) Are immoral, unethical, oppressive or unscrupulous; and,

20 (c) Cause substantial injury to MHA tenants, consumers of MHA housing.

21 71. A permanent injunction is necessary to prohibit MHA from such statutory violations
 22 in the future. Without such permanent injunctive relief, the class for which this action is
 23 commenced will be irreparably harmed by MHA's illegal practices. Absent such permanent
 24 injunctive relief, substantial injury to the class will occur which cannot be adequately remedied at
 25 law.

26 72. The injunctive relief sought herein will result in the enforcement of important rights
 27 affecting the public interest, in part as set forth in the United States Housing Act, confer a
 28

significant benefit on a large number of past and present MHA tenants, who will now be able to enjoy the rights provided them under that Act, as a result of significant enforcement efforts.

FOURTH CAUSE OF ACTION

California Business & Professions Code § 17200 *et seq.*

Class Action Claim For Restitution of Legal Fees, Maintenance Charges and Excess Utility Charges Assessed and Collected Through Unlawful, Misleading and Unfair Business Practices

73. Plaintiffs hereby incorporate by reference the allegations of paragraphs 1 – 72 herein.

74. As set forth herein, MHA has wrongfully obtained funds from past and present MHA tenants through unlawful, fraudulent and unfair means in violation of Business & Professions Code § 17200 *et. Seq.* Such fees include legally unauthorized and unconscionably high legal fees, maintenance fees to repair conditions not caused by MHA tenants or their guests, and excess utility charges calculated and assessed in violation of applicable regulations.

75. For the reasons set forth herein, restitution of such wrongfully assessed and collected funds is authorized under Business and Professions Code § 17203 to Plaintiffs and other past and present MHA tenants.

PRAYER FOR RELIEF

WHEREFORE, PLAINTIFFS seek an order and judgment against The Marin Housing Authority, for themselves and others similarly situated, as follows:

1. For a permanent injunction against MHA's violations of 42 U.S.C. § 1983 through deprivation of legal rights afforded Plaintiffs, and others similarly situated, under the United States Housing Act, 42 U.S.C. § 1437 *et seq.*;

2. For a declaratory judgment that MHA's practices violated Plaintiffs' rights, and those of others similarly situated, under 42 U.S.C. § 1983 and the United States Housing Act, 42 U.S.C. § 1437 *et seq.*;

3. For a permanent injunction against MHA's unlawful, fraudulent and unfair business practices as set forth herein;

4. For an Order that MHA must correct all outstanding MHA tenant accounts, so that –

(a) all charges are properly calculated;

(b) all tenant payments have been properly credited;

(c) all rent payments have been applied to rent and not other charges, and all wrongful late fee charges are withdrawn;

(d) the resulting rent deficiencies, if any, are duly segregated from amounts owed for charges other than rent;

(e) all affected tenants are provided written notice from MHA to accurate current amounts due, if any; and,

(f) all affected tenants be given the opportunity to enter into a Repayment Agreement with MHA, if necessary, to facilitate the payment of outstanding charges, given a reasonable period to pay such charges.

5. For an order that, going forward, MHA must, *inter alia*:

(a) provide a written accounting of all amounts due from each tenant on a monthly basis;

(b) apply all tenant payments to rent where tenants indicate in writing, on a check or otherwise, that the payment should be applied to rent;

(c) apply all tenant payments to rent first, and all other charges thereafter;

(d) calculate and charge late fees only on the basis of any deficiency in the payment of rent, after applying payments as set forth in subparagraphs (b) and (c) herein;

(e) provide receipts to tenant for all tenant payments made at any MHA offices;

(f) provide an opportunity for all tenants to enter into Repayment Agreements before commencing Unlawful Detainer proceedings based on alleged amounts owed MHA by tenants;

(g) avoid commencing Unlawful Detainer proceedings until a final decision has been issued in grievance proceedings putting in question alleged amounts owed MHA by tenants and tenants have been provided 10 days to make payments required by such decisions;

(h) put in place a meaningful and effective grievance procedure and provide adequate written notice thereof; and,

(i) make a determination whether any repair or maintenance service on any tenant's apartment was made necessary by an act or failure to act of tenant, tenant's family or guests, give adequate written notice of this decision and an adequate period to allow tenants to commence a grievance challenging such a ruling, and avoid commencing Unlawful Detainer proceedings based

1 upon such charges until a final decision has been issued in such grievance and tenants have been
2 provided 10 days to make any payments required by such decisions.

3 6. For restitution – to past and present MHA tenants – of wrongfully assessed and
4 collected maintenance charges, legal fees and excess utility charges through unlawful, fraudulent
5 and unfair business practices of MHA, as set forth herein;

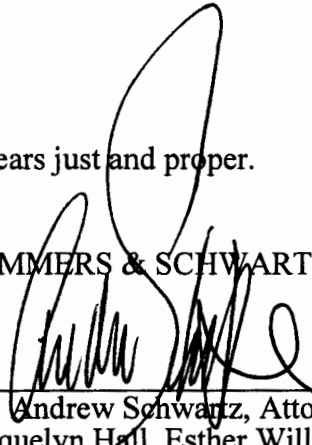
6 7. For reasonable attorneys' fees according to proof at trial under 42 U.S.C. § 1983 and
7 California Code of Civil Procedure § 1021.5;

8 8. For costs of suit; and,

9 9. For any further relief as to the Court appears just and proper.

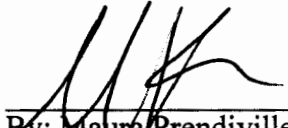
10
11 Dated: September 19, 2012

SOMMERS & SCHWARTZ, LLP

12
13 By:  Andrew Schwartz, Attorneys for Plaintiffs
14 Jacquelyn Hall, Esther Williams, Rachael
15 Brown, Nicanora Contreras, and Ariana
Martinez

16 Dated: September 19, 2012

LEGAL AID OF MARIN

17
18 By:  Maura Prendiville, Attorneys for Plaintiffs
19 Jacquelyn Hall, Esther Williams, Rachael
20 Brown, Nicanora Contreras, and Ariana
Martinez

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DEMAND FOR JURY TRIAL

Plaintiffs Jacquelyn Hall, Esther Williams, Rachael Brown, Nicanora Contreras, and Ariana Martinez demand a trial by jury in this action.

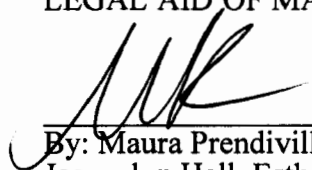
Dated: September 19, 2012

SOMMERS & SCHWARTZ, LLP


By: Andrew Schwartz, Attorneys for Plaintiffs
Jacquelyn Hall, Esther Williams, Rachael
Brown, Nicanora Contreras, and Ariana
Martinez

Dated: September 19, 2012

LEGAL AID OF MARIN


By: Maura Prendiville, Attorneys for Plaintiffs
Jacquelyn Hall, Esther Williams, Rachael
Brown, Nicanora Contreras, and Ariana
Martinez